

Breaux	Gramm	McConnell
Brownback	Grams	Moynihan
Bryan	Grassley	Murkowski
Bunning	Gregg	Murray
Burns	Hagel	Nickles
Byrd	Harkin	Reed
Campbell	Hatch	Reid
Chafee	Helms	Robb
Cleland	Hollings	Roberts
Cochran	Hutchinson	Rockefeller
Collins	Hutchison	Roth
Conrad	Inhofe	Santorum
Coverdell	Inouye	Sarbanes
Craig	Jeffords	Schumer
Crapo	Kennedy	Sessions
Daschle	Kerrey	Shelby
DeWine	Kerry	Smith (NH)
Dodd	Kohl	Smith (OR)
Domenici	Kyl	Snowe
Dorgan	Landrieu	Specter
Durbin	Lautenberg	Stevens
Edwards	Leahy	Thomas
Enzi	Levin	Thompson
Feinstein	Lieberman	Thurmond
Fitzgerald	Lincoln	Torricelli
Frist	Lott	Voinovich
Gorton	Lugar	Warner
Graham	McCain	Wyden

NAYS—5

Boxer	Johnson	Wellstone
Feingold	Mikulski	

NOT VOTING—2

Baucus	Mack
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The nomination was confirmed.

NOMINATION OF RAYMOND C. FISHER

The PRESIDING OFFICER (Mr. CRAPO). The clerk will report the next nomination.

The legislative assistant read the nomination of Raymond C. Fisher, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Raymond C. Fisher, of California, to be United States Circuit Judge for the Ninth Circuit. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida (Mr. MACK) is necessarily absent.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 309 Ex.]

YEAS—69

Abraham	Edwards	Lieberman
Akaka	Feingold	Lincoln
Ashcroft	Feinstein	Lugar
Bayh	Fitzgerald	McCain
Bennett	Frist	Mikulski
Biden	Gorton	Moynihan
Bingaman	Graham	Murray
Bond	Grassley	Reed
Boxer	Harkin	Reid
Breaux	Hatch	Robb
Bryan	Hollings	Rockefeller
Byrd	Inouye	Roth
Chafee	Jeffords	Sarbanes
Cleland	Johnson	Schumer
Cochran	Kennedy	Smith (OR)
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
Daschle	Kohl	Stevens
DeWine	Kyl	Thurmond
Dodd	Landrieu	Torricelli
Domenici	Lautenberg	Voinovich
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NAYS—29

Allard	Burns	Craig
Brownback	Campbell	Crapo
Bunning	Coverdell	Enzi

Gramm	Inhofe	Sessions
Grams	Lott	Shelby
Gregg	McConnell	Smith (NH)
Hagel	Murkowski	Thomas
Helms	Nickles	Thompson
Hutchinson	Roberts	Warner
Hutchison	Santorum	

NOT VOTING—2

Baucus	Mack
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The nomination was confirmed.

Mr. LEAHY. Mr. President, I want to congratulate Ray Fisher on his Senate confirmation. I will miss Ray and Nancy here in Washington, but know that the Ninth Circuit will greatly benefit from his service there.

Finally, I congratulate Ted Stewart on his confirmation and Senators HATCH and BENNETT, who have worked hard to get him confirmed expeditiously. I trust that Mr. Stewart will honor the commitments that he made to the Judiciary Committee to avoid even the appearance of impropriety on matters on which he has worked while in State government.

I said on the Senate floor last night that this body's recent treatment of women and minority judicial nominees is a badge of shame. I feel that we added to that shame with today's vote of Justice Ronnie White.

In their report entitled "Justice Held Hostage," the bipartisan Task Force on Federal Judicial Selection from Citizens for Independent Courts, co-chaired by Mickey Edwards and Lloyd Cutler, substantiated through their independent analysis what I have been saying for some time: Women and minority judicial nominations are treated differently by this Senate and take longer, are less likely to be voted on and less likely to be confirmed.

Judge Richard Paez has been stalled for 44 months, and the nomination of Marsha Berzon has been pending for 20 months. Other nominees are confirmed in 2 months.

Anonymous Republican Senators continue their secret holds on the Paez and Berzon nominations. The Republican majority refuses to vote on those nominations. In fairness, after almost 2 years and almost 4 years, Marsha Berzon and Judge Richard Paez are entitled to a Senate vote on their nominations. Vote them up or vote them down, but vote. That is what I have been saying, that is what the Chief Justice challenged the Republican Senate to do back in January 1998.

I can assure you that there is no Democratic Senator with a hold on Judge Paez or Marsha Berzon. I can assure you that every Democratic Senator is willing to go forward with votes on Judge Paez and Marsha Berzon now, without delay.

Last Friday, Senator LOTT committed to trying to "find a way" to have these nominations considered by the Senate. I want to help him do that.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

JUDICIAL NOMINATIONS

Mr. NICKLES. Mr. President, before we return to the consideration of the FAA reauthorization bill, I would like to make a couple of comments. Raymond Fisher, just confirmed to the Ninth Circuit, is the 323rd judge who has been confirmed since President Clinton has been in office. 195 of those judges have been confirmed since Republicans took control of the Senate in 1995.

Judge Ronnie White is the first nominee, I believe, to be rejected on the floor since Republicans took control of the Senate. One of our colleagues said that he hoped that we are not returning to a "color test." That is what was said. I am offended by that statement. Many people on our side of the aisle didn't know what race Judge White is. We did know that 77 of Missouri's 114 sheriffs were opposed to his nomination. We did find out that two State prosecutors' offices raised their objections. We did know there was a letter from the National Sheriffs Association opposing his nomination.

I believe that we have been very consistent, at least on this side of the aisle. We do not want to confirm a nominee where you have major law enforcement organizations and leading officials saying they are opposed to the nomination, regardless of what race he or she is. I do not believe the Senate has ever confirmed anyone when national law enforcement organizations or officials have stated that the nominee has a poor or weak background in law enforcement. To my knowledge, I have never voted to confirm any such nominee, nor have many other members.

I want to make it absolutely clear and understood that members voted no on Judge White's nomination because of the statements made by law enforcement officers, in addition to the respect that we have for the two Senators from the nominee's state who recommended a no vote. We respect their recommendation to us. So I make mention of that.

I am bothered that somebody said I hope we are not returning to a "color test." That statement was uncalled for and, I think, not becoming of the Senate. I want to make sure that point is made.

Mr. SCHUMER. Mr. President, will the Senator from Oklahoma yield?

Mr. NICKLES. I would be happy to yield.

Mr. SCHUMER. I thank the Senator. I just want to say a few words not in response but maybe in contraposition to what the Senator said.

Mr. NICKLES. I will be happy to yield for a question.

Mr. SCHUMER. I thank the Senator. I appreciate that. I will ask my question.

It seems to me that whatever the intentions—I am not impugning any intentions of any person who voted the other way, but it seems to me that the recent vote on the floor of the Senate